

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 4928
Timothy L. Smoot, Senior Vice President)	
MSBDFA Management Group, Inc.)	

CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission received from counsel for MSBDFA Management Group, Inc. ("MMG") on April 7, 1999. The Federal Election Commission ("Commission") found reason to believe that Timothy L. Smoot ("Respondent") violated 2 U.S.C. §§ 441b and 441f.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. MMG is a for-profit corporation organized under the laws of the state of Maryland.
2. Timothy L. Smoot is Senior Vice President of the corporation.
3. By letter dated April 7, 1999, counsel for MMG notified the Federal Election Commission that MMG had become aware of possible violations of the Act by the corporation.

One such violation involved the receipt of funds from the corporation by Mr. Smoot, on several different occasions in 1997 and 1998, for the express purpose of using the funds to make contributions to candidates for federal office.

4. The corporate contributions to the federal candidates were made in Mr. Smoot's name.

5. The available information demonstrates that Mr. Smoot, a senior officer of the corporation, consented to and participated in MMG's violation of the Act by requesting funds from the corporation to make the federal contributions and allowing his name to be used for that purpose. Mr. Smoot contends that he was not aware that it is unlawful to receive corporate reimbursement for contributions made to federal candidates.

6. The Act prohibits corporations from making contributions or expenditures in connection with a Federal election. 2 U.S.C. § 441b(a). Section 441b(a) of the Act also prohibits any officer or any director of any corporation from consenting to any contribution or expenditure by the corporation.

7. Further, Section 441f of the Act prohibits any person from making a contribution in the name of another person or from permitting his or her name to be used to effect such a contribution. The Commission regulations at 11 C.F.R. § 110.4(b)(1)(iii) also make it unlawful for any person to knowingly help or assist any person making a contribution in the name of another. The Commission regulations and rulings make it clear that the section 441f prohibition applies to any person who provides money to others, or any person who uses said money, to make contributions, 11 C.F.R. § 110.4(b)(2), and to incorporated or unincorporated entities who give money to another to effect a contribution in the second person's name. Advisory Opinion 1986-41.

V. Respondent consented to MMG's corporate contributions, and allowed his name to be used in MMG's making of the corporate contributions, in violation of 2 U.S.C. §§ 441b(a) and 441f.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of One Thousand, One Hundred dollars (\$1,100), pursuant to 2 U.S.C. § 437g(a)(5)(A). The Commission took into account the *sua sponte* nature of this matter, and Respondent's cooperation, in arriving at this amount.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement(s) contained in this agreement and to so notify the Commission.

X. Respondent understands that the recipient campaign committees will be requested to disgorge the above-referenced reimbursed contributions to the United States Treasury.

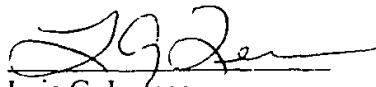
Respondent waives any and all claims he may have to the refund or reimbursement of such contributions.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

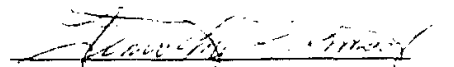
BY:


Lois G. Lerner
Associate General Counsel

Date

3/1/00

FOR THE RESPONDENT:


Timothy L. Smoot, Senior V.P.
MSBDFA Management Group, Inc.

Date

1/21/00